

REMARKS

In response to the final rejection of November 15, 2007, Applicants have canceled claims 20, 23, 26, 29 and 30 which were objected to by the examiner as being substantial duplicates of other claims. The examiner also objected to claim 24 as a substantial duplicate of dependent claim 18. However, dependent claim 18 is directed to the combination of soft pine wood dust and silica gel while claim 24 is directed to the combination of fine soft pine wood dust with sphagnum peat moss. Therefore, since it is believed that claim 24 is not a substantial duplicate of claim 18, it is requested that the examiner withdraw his objection to claim 24.

A reconsideration of the examiner's rejection of claims 1-11 under 35 U.S.C. 112, first paragraph, on the ground that the limitation of "a dry plasticizer absorbent material" recited in claim 1 has no support in the disclosure of the patent application. Applicants contend that there is support in the disclosure for this limitation. Applicants wish to bring the examiner's attention to [0015] on page 5 of the specification, at line 3, where it is stated: "c) dried sphagnum peat moss." In [0015] at line 7, the following is found: "This peat moss may be artificially heated or air dried by the supplier." While there is no explicit language in the specification that the fine soft pine wood dust or the silica gel are dry, such a quality is inherent in these materials. If fine soft pine wood dust is not dry it would not be dust, but would be something like slime. Surely, the examiner is familiar with the common expression "dry as dust." Silica gel is useful only when it is dry. In fact, it is common knowledge that silica gel is dried for further use when it becomes damp.

It is not necessary that characteristics of a material be explicitly stated in the specification of a patent application as long as these characteristics are inherently contained therein. Litton Sys., Inc. v. Whirlpool Corp., 728 F. 2d 1423, 1438; 221USPO 97 106 (Fed. Cir. 1984).

Not only is the dried sphagnum peat moss, a plasticizer material, explicitly described in [0015] of the specification, other plasticizer absorbent materials such as fine soft pine dust and silica gel which are described, inherently possess this characteristic. Therefore, the examiner's rejection of claims 1-11 under 35 U.S.C. 112, first paragraph, in the final rejection should be withdrawn.

This amendment is entitled to be entered at this time although it is after final rejection in accordance with the provisions of 37 C.F.R. 1.116 (b)(1) because it merely cancels claims in accordance with the requirements of the examiner.

For the foregoing reasons, it is believed that the claims as amended are allowable and such action is requested.

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